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Date of Signature and Deposit: December 20, 2004

Cham J. Forman

Attorney of Record

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Robert C. Gaffney, et al.
Serial No.: 10/614,967
Filed: July 08, 2003
For: *Button Cell Battery Pack With Air Access Channel*
Group Art Unit: 3728
Examiner: Bui, Luan Kim
Docket No.: 780396.92191

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Restriction Requirement dated November 19, 2004 identified claims said to be directed to the following patentably distinct species of the claimed invention:

Group I: The species of a battery pack as shown in Figs. 9-10.

Group II: The species of a battery pack as shown in Figs. 11a-11b.

Group III: The species of a battery pack as shown in Fig. 12.

The Restriction Requirement further states that Applicant will be entitled to consideration of claims to additional species upon allowance of a generic claim. However, the Restriction Requirement states that currently no claims are generic.

Election

In response to the Requirement, Applicant provisionally elects Group I (the species of a battery pack as shown in Figs. 9-10), and this election is made with traverse. Applicant identifies claims 1-4, 7-15, 18-26, and 29 that read on Group I.

Traversal

As noted above, the Restriction Requirement states that no claims are currently generic. Applicant respectfully disagrees and, in particular, asserts that at least independent claims 1 and 22 are generic to all three species, as will now be discussed.

A. Independent Claim 1

Independent claim 1 recites a flexible card, a backing, a platform, a cover, and a cavity, which are all clearly illustrated and included in the embodiments illustrated in Figs. 9-10, 11a-11b, and 12. With regards to the “air access channel formed in said platform for allowing air to diffuse to the batteries supported by said platform” limitation of claim 1, Applicant asserts that this limitation is also found in all three Groups.

For example, as to Group 1 (Figs. 9-10), Paragraph 35 of the specification states that “a groove 100 formed in the platform top wall 64 defines a pair of radially spaced ridges 102 that engage the batteries 18 to form an air access channel beneath the batteries.” As to Group II (Figs. Figs 11a-11b), Paragraph 36 of the specification states that “dimples 106 shown in Figs. 11a and 11b can be provided which raise the batteries above the platform top wall to provide a channel beneath the batteries...” As to Group III (Fig. 12), Paragraph 36 of the specification states that “holes 108, such as shown in Fig. 12, formed in the platform top wall beneath the batteries can form the air access channel.” Clearly all three Groups include an air access channel as recited in claim 1. Applicant also asserts that dependent claims 2-3 and 7-10 are generic to all three Groups.

B. Independent Claim 22

Moreover, Applicant asserts that independent claim 22 is generic to all three Groups. Specifically, each group includes a backing and a platform as recited in claim 22. With respect to the “air access channel formed in said platform for allowing air to diffuse to the batteries supported by said platform” limitation of claim 22, , Applicant asserts that this limitation also is found in all three Groups for the reasons identified above with respect to independent claim 1. Applicant also asserts that dependent claims 23-25 and 29 are generic to all three Groups.

Conclusion

Applicant therefore respectfully asserts that the application currently includes at least one claim that is generic to all three Groups, the restriction requirement is therefore improper, and that Applicant is entitled to prosecute claims 1-29. If this traversal is denied, Applicant reserves the right to petition such a denial, pursue the nonelected claims upon allowance of a generic claim (e.g., at least claims 1, 2-3, 7-10, 22, 23-25, and 29), and prosecute the nonelected claims in a divisional application.

The Examiner is invited to contact the undersigned at the telephone number appearing below if such would resolve any further issues regarding the Restriction Requirement or otherwise advance the prosecution of this application.

No fees are believed necessary in connection with this response. However, if any fees are deemed necessary, please charge such fees to Deposit Account No. 17-0055.

Respectfully submitted,

By: Adam J. Forman
Adam J. Forman
Attorney for Applicant
Quarles & Brady LLP
411 E. Wisconsin Avenue, Suite 2040
Milwaukee WI 53202-4497
(414) 277-5405
Reg. No. 46,707